IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 3914 of 2005

Between:

M/s. Hindustan Lever Limited, Bachupalli, Ranga Reddy District,
Rep by its Manager, Mr. Y. Mani

..... PETITIONER

AND

1 The Assistant Commissioner (CT), LTU, Hyderabad Rural Division,

Hyderabad.
2 The Appellate Deputy Commissioner (CT), Hyderabad Rural Division,
Hyderabad.
3 The Additional Commissioner (CT), Legal, Andhra Pradesh, Nampally,
Hyderabad.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Certiorari or any other appropriate writ or order or direction quashing the order of the 3rd Respondent in CCT's Ref No. LIII(3)/214/2005, dated 17-2-2005 as illegal, arbitrary and contrary to law and consequently restrain the 1st respondent from taking any coercive steps for recovery of disputed tax of Rs.18,17,411/- for the assessment year 2004-05 (Provisional) pending disposal of the appeal before the 2nd respondent and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case

Counsel for the Petitioner: MR.S.DWARAKANATH

Counsel for the Respondent No.: GP FOR COMMERCIAL TAX

The Court at the stage of admission made the following :

ORAL ORDER: (Per Sri MHSA.J)

Heard the learned counsel for the petitioner as well as the learned Government Pleader for Commercial Taxes appearing on behalf of the respondents.

The instant writ petition is filed questioning the orders passed by the learned Additional Commissioner(CT) Legal, the 3rd respondent herein dated 17.2.2005 in exercise of the revisional jurisdiction whereby the application filed for stay of collection of tax pending disposal of the appeal before the 2nd respondent was rejected inter alia on the ground that in the petitioner's own case the appeal has been dismissed earlier. In other words, learned Additional Commissioner, CT considered the matter only on the principle of prima facie case while rejecting the stay.

Keeping in view the fact that right of appeal is provided against the order of assessment and pending disposal of such appeal, power is conferred to grant stay and also keeping in view that for maintaining such an appeal, a pre deposit of 12.5% of tax is envisaged and that condition having been complied with we are inclined to dispose of the instant writ petition with usual orders being passed by this court in such matters.

Accordingly, the writ petition is disposed of with directions as under:

If the petitioner deposits 50% of the disputed tax on or before 31.3.2005, the appeal pending before the 2nd respondent shall be heard on its own merits without insisting

upon payment of balance 50% of the tax in dispute. We clarify here that in computing the 50% amount hereby directed to be deposited, credit shall be given to the amounts already deposited.

07…..03…..2005

To

1 The Assistant Commissioner (CT), LTU, Hyderabad Rural Division,

Hyderabad.
2 The Appellate Deputy Commissioner (CT), Hyderabad Rural Division, Hyderabad.
3 The Additional Commissioner (CT), Legal, Andhra Pradesh, Nampally, Hyderabad.

4 2 CCs to the Government Pleader for Commercial Taxes, High Court of A.P Hyderabad (OUT)

5 2 CD copies.